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Albert Josif
DR. MODIANO & ASSOCIATI S.p.A.
Via Meravigli 16
Milan 20123
ITALY

In re Application of:	:	
MATTIOLI, Alessandro	:	DECISION ON PETITION
U.S. Application No.: 10/527,194	:	
PCT No.: PCT/IT03/00061	:	
International Filing Date: 10 February 2003	:	
Priority Date: 08 February 2002	:	
Atty Docket No.: 41393-JDV-rf	:	
For: NECKTIE WITH THREE OR MORE	:	
PARTS IN SIGHT AND KNOT	:	
WITH TWO OR MORE FABRIC	:	
FILMS	:	

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181(a) and MPEP 711.03(c)(I)" filed 09 November 2005. No petition fee is required.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/IT03/00061 that claimed a priority date of 08 February 2002 and designated the United States. On 14 August 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 09 August 2004 (08 August 2004 was a Sunday).

On 05 August 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, a copy of the international application. The submission did not include payment of the national fee; rather, the transmittal letter indicated that the basic national fee was being paid by wire transfer.

On 13 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the "full U.S. Basic National Fee by 30 months."

On 09 November 2005, the petition considered herein was filed. The petition asserts that applicants' wire transfer of the basic national fee was made on 09 August 2005, prior to

expiration of the thirty-month deadline, and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

As with any materials filed in the USPTO, the filing date accorded to a fee payment is the date the USPTO receives such fee payment (see 37 CFR 1.6). Here, USPTO records indicate that the wire transfer of the basic national fee was not received by the USPTO until 11 August 2005. Thus, regardless of when applicant initiated the wire transfer, the basic national fee was paid on 11 August 2005. This payment date is after the expiration of the thirty-month deadline at midnight on 09 August 2004.

Pursuant to 37 CFR 1.495(h), the failure to timely pay the basic national fee results in the abandonment of the application with respect to the United States. The Notification of Abandonment mailed herein on 13 September 2005 was therefore proper. Withdrawal of the Notification Of Abandonment on the present record would be inappropriate.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The present application remains abandoned with respect to the United States of America.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include an adequate showing that the payment of the basic national fee was received by the USPTO prior to the expiration of the thirty-month deadline at midnight on 09 August 2004.

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459